

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Robert G. Taub

Ingleside Post Office  
Ingleside, Maryland

Docket No. A2011-99

ORDER AFFIRMING DETERMINATION

(Issued January 13, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”<sup>1</sup> The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

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<sup>1</sup> United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On September 28, 2011, Christopher Vaught (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Ingleside, Maryland post office (Ingleside post office).<sup>2</sup> The Final Determination to close the Ingleside post office is affirmed.

## II. PROCEDURAL HISTORY

On September 29, 2011, the Commission established Docket No. A2011-99 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.<sup>3</sup>

On October 13, 2011, the Postal Service filed the Administrative Record with the Commission.<sup>4</sup> The Postal Service also filed comments requesting that the Commission affirm its Final Determination.<sup>5</sup>

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<sup>2</sup> Petition for Review received from Christopher Vaught regarding the Ingleside, Maryland Post Office 21644, September 28, 2011 (Petition).

<sup>3</sup> Order No. 892, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 30, 2011.

<sup>4</sup> The Administrative Record is attached to the United States Postal Service Notice of Filing, October 13, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Ingleside, MD Post Office and Extend Service by Rural Route Service (Final Determination).

<sup>5</sup> United States Postal Service Comments Regarding Appeal, November 22, 2011 (Postal Service Comments).

Petitioner filed a Participant Statement supporting his Petition.<sup>6</sup> On December 7, 2011, the Public Representative filed a reply brief.<sup>7</sup>

### III. BACKGROUND

The Ingleside post office provides retail postal services and service to 23 post office box or general delivery customers and to 31 rural delivery customers. Final Determination at 2. Thirty-one delivery customers are served through this office. The Ingleside post office, an EAS-55 level facility, has retail access hours of 8:00 a.m. to 2:30 p.m., Monday through Friday, and 8:00 a.m. to 11:30 a.m. on Saturday. Lobby access hours are the same as retail access hours. *Id.*

The postmaster position became vacant on January 1, 2010, when the Ingleside postmaster retired. A temporary officer-in-charge (OIC) was installed to operate the office.<sup>8</sup> Retail transactions average 18 transactions daily (18 minutes of retail workload). Final Determination at 2. Post office receipts for the last three years were \$11,278 in FY 2008; \$8,214 in FY 2009; and \$7,066 in FY 2010. *Id.* There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$29,219 annually. *Id.* at 5.

After the closure, retail services will be provided by the Barclay post office located approximately 3 miles away.<sup>9</sup> *Id.* at 2. Delivery service will be provided by rural carrier through the Barclay post office. Service will be provided to cluster box units (CBUs). *Id.* The Barclay post office is an EAS-11 level office, with retail hours of 8:00 a.m. to 11:30 a.m. and 12:15 p.m. to 4:30 p.m., Monday through Friday, and

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<sup>6</sup> Participant Statement received from Christopher Vaught, November 1, 2011 (Participant Statement).

<sup>7</sup> Reply Brief of the Public Representative, December 7, 2011 (PR Reply Brief).

<sup>8</sup> *Id.* The record is unclear whether the OIC is a non-career employee or a career employee on temporary assignment to operate the post office. See Administrative Record, Item 15 at 1, Item 18 at 1, Item 33 at 1, Item 44 at 1, and Item 47 at 2, 5, 7.

<sup>9</sup> MapQuest estimates the driving distance between the Ingleside and Barclay post offices to be approximately 3.7 miles (5 minutes driving time).

9:30 a.m. to 12:30 p.m. on Saturday. Eighty-two (88) post office boxes are available. The Postal Service will continue to use the Ingleside name and ZIP Code. *Id.* at 5, Concern No. 1.

#### IV. PARTICIPANT PLEADINGS

*Petitioner.* Petitioner opposes the closure of the Ingleside post office. Petitioner contends that closing the Ingleside post office would have a negative effect on the community. Petition at 1. He states that having to drive to a different post office, and the increased fuel costs that entails, would be a hardship for many elderly residents who currently walk to the Ingleside post office. *Id.* He contends that the quality of postal services provided by a rural carrier will not be the same, nor as convenient, as those currently received in the Ingleside post office. *Id.* He alleges that the Postal Service's determination to close the Ingleside post office was made solely for financial reasons and in violation of 39 U.S.C. § 101(b). Participant Statement at 2.

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Ingleside post office. Postal Service Comments at 1. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Ingleside community; and (3) the economic savings expected to result from discontinuing the Ingleside post office. *Id.* at 6. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Ingleside post office should be affirmed. *Id.* at 15-16.

The Postal Service explains that its decision to close the Ingleside post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and declining office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);

- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

*Id.* at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Ingleside community when the Final Determination is implemented. *Id.* at 16.

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Ingleside community, economic savings, and effect on postal employees. *Id.* at 15-16.

*Public Representative.* The Public Representative concludes that the Postal Service has followed applicable procedures and that the Final Determination to close the Ingleside post office is not arbitrary and capricious, but is supported by substantial evidence. PR Reply Brief at 5.

## V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

#### A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The Administrative Record indicates the Postal Service took the following steps in reaching its Final Determination. On March 4, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Ingleside post office. Final Determination at 2. A total of 66 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 17 questionnaires were returned. On March 25, 2011, the Postal Service held a community meeting at Barclay post office to address customer concerns. Ten customers attended. *Id.*

The Postal Service posted the proposal to close the Ingleside post office with an invitation for comments at the Ingleside and Barclay post offices from May 12, 2011 through July 13, 2011. Final Determination at 2. The Final Determination was posted at the same two post offices from August 15, 2011 through September 16, 2011. Administrative Record, Item No. 50.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

#### B. Other Statutory Considerations

In making a determination on whether to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

The Postal Service must also comply with the provisions of 39 U.S.C. § 101(b), which prohibits closing any small post office solely for operating at a deficit.

*Effect on the community.* Ingleside, Maryland is an unincorporated community located in Queen Anne County, Maryland. Administrative Record, Item No. 16. The community is administered politically by Queen Anne County. Police protection is provided by State Police, Queen Anne County. Fire protection is provided by Queen Anne County. The community is comprised of the self-employed, farmers and a small percentage of retirees. *Id.* Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Ingleside community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Ingleside post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 2-5.

Petitioner contends that closure of the Ingleside post office would have a negative effect on the community. Petition at 1. The Postal Service contends that the community will continue to use the Ingleside name and ZIP Code. Postal Service Comments at 10-11. It noted that residents can continue to meet informally to socialize at other locations in town such as businesses or churches. *Id.*

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

*Effect on employees.* The Postal Service states that the Ingleside postmaster retired on January 1, 2010 and that a temporary OIC has operated the Ingleside post office since then. Administrative Record, Item 33 at 2; see Final Determination at 2. It asserts that after the Final Determination is implemented, the temporary OIC may be

separated and that no other Postal Service employee will be adversely affected. *Id.* at 5.

The Postal Service has considered the possible effects of the post office closing on the temporary OIC and has satisfied its obligation to consider the effect of the closing on employees at the Ingleside post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

*Effective and regular service.* The Postal Service contends that it has considered the effect the closing will have on postal services provided to Ingleside customers. Postal Service Comments at 10-11. It asserts that customers of the closed Ingleside post office may obtain retail services at the Barclay post office located 3 miles away. Final Determination at 2. Delivery service will be provided by rural carrier through the Barclay post office. *Id.* The 23 post office box customers may obtain Post Office Box service at the Barclay post office, which has 82 boxes available. *Id.* For customers choosing not to travel to the Barclay post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 8.

Petitioner contends that, following the closure of the Ingleside post office, the community will no longer receive a maximum degree of regular and effective postal services because the quality of postal services provided by a rural carrier will not be the same, nor as convenient, as those currently received in the Ingleside post office. Petition at 1; Participant Statement at 1-2. The Postal Service contends that the same postal services will be available from the rural carrier, which may be more convenient for elderly residents as they are not required to leave their homes. Postal Service Comments at 8-9.

Petitioner does not accept the Postal Service's contention that rural carriers can provide the same postal services as the Ingleside post office. Petition at 1; Participant Statement at 3. In particular, Petitioner argues that he frequently uses First-Class Mail International (FCMI) and that the processing of such mail is best transacted at a post office. Petition at 1; Participant Statement at 3. The Postal Service responds by noting that Petitioner's concern regarding FCMI was not raised prior to the issuance of the Final Determination and that no other customer raised this concern. Postal Service



Comments at 7-8. In any event, the Postal Service argues that FCMI transactions can be provided by the Barclay post office. *Id.* at 8. The Postal Service offers a similar response to Petitioner's claim that a post office is needed in order to obtain government forms. *Id.* at 9. Specifically, the Postal Service asserts that government forms can be obtained either from the Barclay post office or through local government agencies. *Id.*

Finally, in response to the alleged claims by Petitioner regarding vandalism and mail security, the Postal Service offers various reasons why such concerns are unfounded. *Id.* at 9-10. However, a review of Petitioner's filings at the Commission reveals no such expressions of concern. See Petition; Participant Statement.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

*Economic savings.* The Postal Service estimates total annual savings of \$29,219. Final Determination at 5. It derives this figure by summing the following costs: postmaster salary and benefits (\$30,315) and annual lease costs (\$2,200), minus the cost of replacement service (\$3,296). *Id.* The Postal Service also estimates a one-time expense of \$1,700 "for the movement of this facility." *Id.* This appears to be a reference to the cost of providing CBUs.

The Commission has previously stated that the Postal Service should not compute costs unless there is a reasonable assurance that closing will actually eliminate those costs. The Ingleside post office postmaster retired on January 1, 2010. Final Determination at 2. The post office has since been staffed by a temporary OIC who, upon discontinuance of the post office, either may be separated from the Postal Service or returned to duties at a nearby post office. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Ingleside post office has been staffed by an OIC for approximately 2 years, even assuming the use of the

presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

*Section 101(b).* Section 101(b) prohibits closing any small post office solely for operating at a deficit. Petitioner alleges that the Postal Service is closing the Ingleside post office solely for economic reasons. Participant Statement at 1.

To be sure, economics plays a role in the Postal Service's decision. However, the Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the Ingleside post office (revenues declining and averaging only 18 retail transactions per day), the Postal Service took into account other factors such as the postmaster vacancy, the minimal impact on the community, and expected financial savings. In addition, it considered the alternate delivery and retail options available to customers. Final Determination at 1-7.

The Postal Service did not violate the prohibition in section 101(b) on closing the Ingleside post office solely for operating at a deficit.

## VI. CONCLUSION

The Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Ingleside post office is affirmed.

*It is ordered:*

The Postal Service's determination to close the Ingleside, Maryland post office is affirmed.

By the Commission.

Ruth Ann Abrams  
Acting Secretary

## DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Ingleside post office has been operated by a temporary officer-in-charge (OIC) since the position became vacant on January 10, 2010 when the former postmaster retired.<sup>10</sup> On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal which may not be true according to the Administrative Record, but the Final Determination states that the employee may or may not be terminated. On the other hand, the Postal Service argues that the savings should be calculated using a full-time position.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

There are inherent and blatant contradictions in the record that must be corrected on remand.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and

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<sup>10</sup> The record is unclear regarding whether the OIC serves in a career or non-career position.

pursue an appeal to the Commission, while others whose post offices were in the review process but had not yet received a discontinuance notice by December 12, 2011 have the respite of a 5-month moratorium.

The citizens of Ingleside, Maryland and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

## DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Administrative Record is unclear if the Postal Service adequately considered the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

On January 1, 2010, the postmaster of the Ingleside post office retired. The Administrative Record indicates that since that time, a temporary officer-in-charge (OIC) is operating the post office. The Administrative Record, however, is unclear if the OIC is a non-career postmaster relief (PMR), or a career employee on temporary assignment to operate the post office. Administrative Record, Item 15 at 1, Item 18 at 1, Item 33 at 2, Item 44 at 1, Item 47 at 2, Item 47 at 7. Final Determination at 2, 5, 7.

If the OIC is a career employee on temporary assignment, it could be that the salary and benefits are comparable to an EAS-11 postmaster. But, if the OIC is a PMR, then the cost savings analysis should reflect that a PMR has been in charge of this facility since January 2010, not an EAS-13 postmaster. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

Nanci E. Langley